

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

**TONY HAWKINS and SHEILA  
HAWKINS**

**PLAINTIFFS**

**v.**

**No. 3:13-cv-210-DPM**

**BANK OF AMERICA NA**


**DEFENDANT**


**ORDER**

The Hawkinses have pleaded a plausible claim under the Arkansas Deceptive Trade Practices Act. They have given enough particulars to support their allegation that Bank of America delayed their loan-modification process for an extended period of time, and they are now more than two years behind on their mortgage payments, and at risk of losing their home, as a result. FED. R. CIV. P. 9(b). The Hawkinses have not, however, given enough details, at this point, to support their allegation that Bank of America told them to fall six months behind on their mortgage. In fact, the papers attached to, and incorporated in, their pleading show that Bank of America told them the exact opposite. *No. 28-1 at 63; Porous Media Corp. v. Pall Corp.*, 186 F.3d 1077, 1079 (8th Cir. 1999). The Hawkinses' ADTPA claim—based only on an

allegedly unconscionable delay – moves forward. Bank of America's answer due 7 March 2014. A final scheduling order will issue.

So Ordered.

  
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D.P. Marshall Jr.  
United States District Judge

  
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20 February 2014